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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/362,014	07/27/1999	WILLIAM SCOTT MEEKS	99-820	6303

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b><i>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</i></b>	<b>Application No.</b> 09/362,014	<b>Applicant(s)</b> MEEKS ET AL.	
	<b>Examiner</b> Raymond J. Bayerl	<b>Art Unit</b> 2173	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 October 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

In presenting the 27 October 2005 revised brief, appellant has failed to remedy the difficulties noted in the remand by the Board of Appeals, dated 6 September 2005, as referenced in the previous notification of non-compliant appeal brief dated 26 September 2005.

Item 4: Appellant's "Summary of Claimed Subject Matter" is not in fact a summary of the subject matter that is claimed. Appellant begins with "The present invention provides...", but the discussion that follows is of the invention as disclosed, and not as claimed. Appellant goes on to refer to "An aspect of the present invention" and "an exemplary embodiment", only these are not referenced specifically to the claims; and indeed, it is only an illustrative disclosure that provides what is "exemplary", while the invention for which coverage is sought is distinctly defined by the claims themselves, under 35 USC 112.

Item 5: Appellant's "Grounds of Rejection to be Reviewed on Appeal" only references points of argument that touch on the grounds of rejection in the final Office action, and not actual grounds of rejection. For example, to present for appeal whether Katsurabayashi teaches a component of independent claims 1-2 and 7-8 ("Ground of Rejection" 1.) is not to state a ground of rejection within the meaning of 37 CFR 41.37(c)(1). Instead, a ground of rejection would be that claims 1 - 8, 10, 12 - 17, 42, 43 are rejected under 35 USC 103(a) as being unpatentable over Katsurabayashi and Boss et al.

**RAYMOND J. BAYERL**  
**PRIMARY EXAMINER**  
**ART UNIT 2173**

3 January 2006